specific function." (Paper No. 7, page 2.) The Examiner further asserts that "since no function is specified by the word(s) preceding 'means,' it is impossible to determine the equivalence of the element, as required by 35 U.S.C. § 112, sixth paragraph." (Paper No. 2, page 2, citing *Ex parte Klumb*, 159 U.S.P.Q. 694 (B.P.A.I. 1967)). The Applicant respectfully traverses this rejection of claim 19 under 35 U.S.C. § 112, second paragraph. The Applicant respectfully asserts that claim 19 comports with 35 U.S.C. § 112, second and sixth paragraphs, and the teachings of *Ex parte Klumb*. Claim 19 is a dependent claim depending from claim 17 and reciting the first data processing system thereof further comprising: means for incrementing the response timer value [recited in claim 17] by a preselected time period in response to the first amount of time. As *Ex parte Klumb* teaches, [35 U.S.C. § 112, sixth paragraph] is explicit that a means for performing a specified function is an acceptable definition of an element (or subcombination) of a combination ... . *Ex parte Klumb*, 159 U.S.P.Q. 694, 695 (B.P.A.I. 1968). *Klumb* further teaches that "the third [now sixth] paragraph of section 112 suggests the use of a prepositional phrase as a modifier of the structureless term 'means'". *Ex parte Klumb*, 159 U.S.P.Q. at 695. Thus, there is no requirement that a modifier preceed, the term 'means'; indeed *Ex part Klumb* teaches that precisely the contrary is preferred. *Id.* Claim 19 is in the precise form suggested in *Ex parte Klumb* wherein the prepositional phrase "for incrementing" modifies "means". Thus, claim 19 fully comports with the teachings of *Ex parte Klumb*. Consequently, the Applicant respectfully contends that the rejection of claim 19 under 35 U.S.C. § 112, second paragraph is improper, and the Applicant respectfully requests the Examiner to withdraw the rejection of claim 19 under 35 U.S.C. § 112, second paragraph.

II.   REJECTION UNDER 35 U.S.C. § 102

The Examiner has rejected claims 1-8, 14 and 16 under 35 U.S.C. § 102 as being unpatentable over *Ellis*, U.S. Patent No. 5,719,882 (*"Ellis"*). The Applicant respectfully traverses the rejection of claims 1-8, 14 and 16.

Regarding claim 1, claim 1 has been amended hereinabove to incorporate the limitations previously recited in dependent claim 20 which depended from claim 1. Claim 20 has been rejected under 35 U.S.C. § 103, which rejections are discussed hereinbelow. The Applicant will defer discussion of claim 1 until the obviousness rejections are considered below.

Claim 2 depends from claim 1 and recites the additional limitation in which the step of selectively modifying further comprises the step of incrementing an initial response time by a timer resolution value, to form the response time value. The Examiner relies on disclosure in *Ellis* directed to incrementing a retry number (Paper No. 7, page 3, citing *Ellis* at column 6, line 34.) The step of incrementing a retry number cited by the Examiner is included in a methodology described by *Ellis* for calculating a number of retries to be made before a hub manager times the device out. (*Ellis*, column 6, lines 23-45.) Thus, the Examiner has identified no teaching, and there is no such teaching, in *Ellis* directed to incrementing an initial response time value by a timer resolution value. Thus, it has not been shown that *Ellis* teaches all of the limitations of claim 2.

In order to anticipate a single prior art reference must teach every element as set forth in the claim. MPEP § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)). The identical invention must be shown in as complete a detail as contained in the claim. MPEP § 2131 (citing *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989)). Because, for the aforesaid reasons, *Ellis* has not been shown to teach nor does teach, all of the limitations of claim 2, *Ellis*

cannot anticipate claim 2. Consequently, the Applicant respectfully contends that claim 2 is allowable under 35 U.S.C. § 102 over *Ellis*.

Claim 3 is directed to the method of claim 2 in which the initial response time value is incremented up to a maximum response time value. The Examiner asserts that *Ellis* discloses the limitation of claim 3, citing *Ellis* at column 2, line 15. However, reference to the express teaching of *Ellis* shows that the teaching in *Ellis* cited by the Examiner has been extracted from teachings in *Ellis* disclosing that "when the first response time [elapsed between a first network device sending a first message and the first network device receiving from a second network device the response thereto] is a maximum for response times for messages sent from the first network device to the second network device, the retry time for the second network device is set equal to an amount greater than the first response time." (*Ellis*, column 2, lines 15-19.) Thus, by their plain terms, the aforesaid teachings relied upon by the Examiner do not disclose a step of incrementing an initial response time up to a maximum response time value. Thus, it has not been shown that *Ellis* teaches all of the limitations of claim 3, arranged in the same way. Hence, the Applicant respectfully contends that claim 3 is not anticipated by *Ellis* under 35 U.S.C. § 102.

Claims 4-6 are dependent claims, claim 4 depending from claim 2 and claims 5 and 6 depending from claim 1. Claim 4 is directed to the method of claim 2 in which the initial response time value is a default value. Claims 5 and 6 are each directed to the method of claim 1, in which the response time approximates an amount of time the communication system requires to transfer the first information frame between a first data processing system and a second data processing system, and wherein the response time value is dynamically modifiable in response to the first amount of time, respectively. Additionally, dependent claims 4-6 incorporate the limitations of the respective claims from which they depend. Consequently, for the reasons recited hereinabove with respect to claims 1 and 2, *Ellis* necessarily fails to teach all of the limitations of claims 4-6. Consequently, *Ellis* does not

anticipate claims 4-6. *See* MPEP § 2131. Thus, claims 4, 5 and 6 are allowable under 35 U.S.C. § 102 over *Ellis*.

Claim 7 is directed to a method for operating a communication system including the steps of transmitting a first frame of information, initiating operation of a timer with a first response time, determining when a first query response has been received, and selectively incrementing the first response time when the first query response has been received. The Examiner has rejected claim 7 on the grounds that it contains similar limitations as set forth in claim 1 (without the incorporation of the limitations of claim 20, as amended herein). However, claim 7 recites, *inter alia*, a step of selectively incrementing the first response time, not a step of modifying a response time as recited in claim 1. Furthermore, claim 7 recites a step of determining when a first query response has been received, rather than measuring a first amount of time between transmission of the first information frame (recited both in claim 1 and claim 7) in receipt of the first response. Thus, claims 7 and 1 (without regard to the limitations added in the amendment of claim 1 herein) are directed to different inventions. The Examiner has identified no teaching in *Ellis* directed to a query response nor has the Examiner identified teaching in *Ellis* directed to selectively incrementing the first response time when the first query has been received. Because to anticipate, a single prior art reference must teach the identical invention as claimed, and because it has not been shown that *Ellis* teaches, nor does *Ellis* teach, the identical invention of claim 7, *Ellis* does not anticipate claim 7. Therefore, the Applicant respectfully asserts that claim 7 is allowable under 35 U.S.C. § 102 over *Ellis*.

Claim 8 depends from claim 7 and recites the additional limitation in which the first response time is incremented by a timer resolution value. The Examiner has rejected claim 8 for the identical reason as recited in conjunction with claim 2. Because, for the reasons recited hereinabove in conjunction with claim 2, it has not been established that *Ellis* teaches

the limitation of claim 8, *Ellis* does not anticipate claim 8. Thus, the Applicant respectfully contends that claim 8 is allowable under 35 U.S.C. § 102 over *Ellis*.

Claims 14 and 16 depend from claim 7. Claims 14 and 16 are directed to the method thereof in which respectively, the first response time is a default value, and in which the first response time is incremented up to a maximum response time value. Claim 14 has been rejected on the same rationale as claim 4, and claim 16 has been rejected on the same basis as claim 3. For the reasons recited hereinabove in conjunction with claims 3 and 16, the Applicant respectfully contends that claims 16 and 14, respectively, are also allowable under 35 U.S.C. § 102.

III.   REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected claims 9 and 10 under 35 U.S.C. 103 as being unpatentable over *Ellis* in view of *Chao, et al.*, U.S. Patent No. 5,964,837 ("*Chao*"). The Applicant respectfully traverses the rejections of claims 9 and 10 under 35 U.S.C. § 103.

Claim 9 is directed to the method of claim 7. Claim 7 recites the additional steps of setting a transmit sequence value when the first frame (recited in claim 7) is transmitted, initiating operation of a response timer when the first information frame is transmitted, comparing the transmit sequence value and a receive sequence value when the first response is received, and idling operation of the response timer when the transmit sequence value corresponds to the receive sequence value. The Examiner contends that *Ellis* discloses all of the steps of claim 9 however, the Examiner admits that *Ellis* does not teach the response timer. (The Applicant therefore understands the Examiner to be admitting also that, necessarily, *Ellis* fails to teach initiating operation of a response timer and idling operation of a response timer.) However, the teachings relied upon by the Examiner in *Ellis* disclose that "[i]n addition to the variables necessary to calculate the retry time and retry value for each network, the first network device may also store other statistics pertaining to the

network devices. For example, additional statistics for each network device may include an average response time, a total number of messages sent to the network device, a total number of responses received from the network device ...." (*Ellis*, column 2, lines 54-64.) Thus, the Examiner has identified no teaching in *Ellis* disclosing steps of setting a transmit sequence value when a first frame of information is transmitted, comparing transmit sequence value and a receive sequence value when a first response is received.

With respect to the limitations directed to initiating operation of a response timer, and idling operation of the response timer, the Examiner looks to the teachings in *Chao* to supply the limitations admittedly missing in *Ellis*. The Examiner contends that "the skilled artisan would have look[ed] to the communications system art and would have been led to [utilized] the query timer in *Chao*". (Paper No. 7, page 5.)

However, as an initial matter, the Examiner provides no rationale explaining why the artisan of ordinary skill would have looked at *Chao* to supply the limitations admittedly missing from *Ellis*. *Chao* is directed to systems and methods for monitoring the topology of a network, not directed to systems and methods for response time outs in networks. In the invention of *Chao*, management of a point-to-point network by a network management station is effected via a special management application called an "agent" in each node. (*Chao*, column 4, lines 23-25.) The network topology may be ascertained by polling monitoring, however, *Chao* teaches that there is a tradeoff between frequency of polling and network bandwidth consumption by management traffic. (*See Chao*, column 6, lines 44-54.) Thus, *Chao* discloses an event approach to maintaining a map of the network topology. (*Chao*, column 6, lines 55-65.) However, should an agent abort without notice, a node may become unreachable without notice to the network manager. (*Chao*, column 6, lines 61-63.) Therefore, *Chao* further teaches an "agent liveliness mechanism." (*Chao*, column 6, lines 63-64; column 9, lines 45-65.) In the agent liveliness query mechanism, the network manager periodically queries the agent liveliness from all manageable nodes. (*Chao*, column

9, lines 45-47.) The interval between agent liveliness queries is determined by the elapsing of the query timer of *Chao*. (*See e.g.*, *Chao*, column 12, lines 37-58.) Thus, the Examiner has identified no teaching nor, is there teaching in *Chao*, directed to a step of initiating operation of a response timer when a first information frame is transmitted, and idling a response timer when the recited transmit sequence value corresponds to the received sequence value. For this reason and those discussed hereinabove in conjunction with the teachings in *Ellis*, the Applicant respectfully contends that it has not been shown that *Ellis* and *Chao*, either alone or in combination, teach or suggest all of the limitations of claim 9.

Additionally, a *prima facie* showing of obviousness requires a demonstration of a motivation or suggestion to combine the prior art references to make the claimed invention. MPEP § 2142. A motivation to combine references may arise in one or more of three possible sources: the nature of the problem to be solved, the teachings of the prior art references themselves, or the knowledge of persons of ordinary skill in the art at the time of the invention. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir 1998). Furthermore, the showings of a motivation or suggestion to combine the prior art references must be clear and particular. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999.) The Examiner asserts that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the query timer or response timer as taught by *Chao* into the *Ellis* system to enhance the timing calculation in the communication network." (Paper No. 7, page 5.) However, the Examiner provides no evidentiary support from one of the aforementioned sources for the Examiner's motivation to combine *Chao* and *Ellis*. Broad conclusory statements regarding the teaching of multiple references, without more, are not evidence. *In re Dembiczak*, 50 U.S.P.Q.2d 1617. Consequently, the Examiner has provided no motivation or suggestion upon which a *prima facie* showing of obviousness may be predicated for combining *Chao* and *Ellis*.

Consequently, the requirements of a *prima facie* showing of obviousness have not been met with respect to claim 9. For the aforesaid reasons, it has not been shown that *Chao* and *Ellis*, either alone or in combination, teach or suggest all of the limitations of claim 9, nor has a motivation for combining *Chao* and *Ellis* to make the invention of claim 9 sufficient to sustain a *prima facie* showing of obviousness been provided. (Although a *prima facie* showing also requires a demonstration of a likelihood of success in combining references, this prong need not be addressed here in that it necessarily follows that without teaching or suggesting all of the limitations of the claim, nor providing a motivation or suggestion to combine references, that a likelihood of success also fails.) Thus, because a *prima facie* of showing of obviousness has not been made with respect to claim 9, the Applicant respectfully contends that claim 9 is allowable over *Chao* and *Ellis* under 35 U.S.C. § 103. Claim 10 further depends from claim 9 and recites the additional step of restarting operation of the response timer when the transmit sequence value differs from the receive sequence value. The Examiner simply contends that "*Ellis-Chao*" discloses the limitation of claim 10 (Paper No. 7, page 5.) (The Examiner cites to column 2, lines 19-24, however, the Applicant is unsure as to which of the two references the Examiner is relying upon for the express limitation of claim 10. It is believed that the Examiner is relying on *Ellis* in that the disclosure in *Chao* in the aforementioned location discusses, generally, the objects of the *Chao* invention. In either instance, the teachings of the prior art reference do not address the express limitation of claim 10.) However, the teaching in *Ellis* relied upon simply disclose that "[w]hen the first response time is not a maximum for response times for messages from the first network device to the second network device, the retry time for the second network device is set equal to a weighted average of the current retry time and the first response time." (*Ellis*, column 2, lines 19-24.) Thus, by their plain terms, there is no teaching directed to a step of restarting operation of a response timer when a transmit sequence value differs from a receive sequence value. Thus, it has not been shown that *Chao*

- 10 -

and *Ellis*, either alone or in combination, teach or suggest all of the limitations of claim 10. Moreover, for the reasons recited hereinabove in conjunction with claim 9, a motivation upon which a *prima facie* showing of obviousness may be predicated has not been made with respect to claim 10. (The Examiner recites no further motivation for combining *Chao* and *Ellis* to make the invention of claim 10 beyond that recited with respect to claim 9.) Thus, because the requirements of a *prima facie* showing of obviousness have not been made with respect to claim 10, the Applicant respectfully asserts that claim 10 is allowable over *Chao* and *Ellis* under 35 U.S.C. § 103.

IV.   REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected claims 11-13, 15 and 17-20 under 35 U.S.C. § 103 as being unpatentable over *Ellis* and *Chao* in further view of *Sato*, U.S. Patent No. 5,592,468 ("*Sato*"). The Applicant respectfully traverses the rejection of claims 11-13, 15 and 17-20 under 35 U.S.C. § 103.

Claim 11 depends from claim 7 and recites the additional steps of transmitting the second information frame, selectively receiving a second response in response to transmission of the second information frame, measuring a second amount of time between transmission of the second information frame and receipt of the second response, and selectively initializing a query timer with a maximum response time value. The Examiner contends that all of the limitations of claim 11 are taught by *Ellis* and *Chao* with the exception of the limitations directed to the second information frame. (Paper No. 7, page 6.) However, the Examiner relies on the identical teaching in *Chao* relied upon with respect to claim 9 as disclosing the response timer recited therein. (Paper No. 7, page 6, citing *Chao* at column 12, line 51.) For the same reasons as discussed hereinabove in conjunction with claim 9, the Applicant respectfully contends that the Examiner has not identified teaching in *Chao* directed to the step of initializing a query timer with a maximum response time as

recited in claim 11. Furthermore, the aforementioned step is directed to selectively initializing a query timer and there is nothing in *Chao* that suggests that the query timer is taught therein is selectively initialized.

The Examiner then looks to *Sato* to supply the limitations admittedly missing from *Ellis* and *Chao*. The Examiner contends that "[i]t is well-known in the communication system art to compare the first and second frame or the first and second response as taught by *Sato*." (Paper No. 7, page 6.) However, comparing first and second frames, whether, without admitting whether it is well known in the art, is not directed to the invention of claim 10 as recited in the limitations thereof. Indeed, the Examiner further asserts that "*Sato* calculates the responses between the first and second frame to collect the information between source and destination." (Paper No. 6, page 7, citing *Sato*, column 4, lines 25-30; column 6, lines 53-63; column 9, lines 5-11; column 11, lines 20-30; column 21, line 60 through column 22, line 33; column 27, lines 16-60; and column 33, lines 14-37.) However, again the invention of claim 11 is not directed to a step of calculating responses between first and second frames to collect information between the source and destination. Moreover, rejecting claims under 35 U.S.C. § 103 by distilling the invention down to a gist or thrust is improper. MPEP § 2141.02. Additionally, the teachings relied upon by the Examiner in *Sato* do not disclose the step of measuring a second amount of time between transmission of the recited second information frame and receipt of the second response. The teachings in *Sato* are directed to the transmission of a first data frame, and the generation of an acknowledgment (ACK) frame, or a no acknowledgment (NAK) frame in response, depending on whether the receiving node detects an error in the first frame as received, and then, sending or not resending the first frame accordingly. (*See Sato*, column 4, lines 25-30; column 6, lines 53-63; column 9, lines 5-17; column 11, lines 20-30; column 21, line 60 through column 22, line 33; and column 27, lines 16-60.) The teachings relied upon by the Examiner also disclose generating and storing statistical data for determining whether to send

a message for requesting a response to a reception of a frame. (*Sato*, column 33, lines 14-37.) For these reasons and those recited hereinabove in conjunction with the teachings of *Chao* and *Ellis*, the Applicant respectfully asserts that it has not been shown that *Ellis*, *Chao* and *Sato*, either alone or in combination, teach or suggest all of the limitations of claim 11.

With respect to a motivation or suggestion to combine, the Examiner asserts that "it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the using of a second frame and second response as taught by *Sato* into the *Ellis-Chao* system in order to enhance the data transfer efficiency on [a] communication network." (Paper No. 7, page 6.) However, the motivation recited by the Examiner is not supported by evidence from at least one of the three possible sources thereof. *See In re Rouffet*, 47 U.S.P.Q.2d at 1458. Additionally, as discussed hereinabove, a motivation, such as that recited with respect to claim 11, is not evidence in that broad conclusory statements regarding the teachings of multiple references, standing alone, do not constitute evidence. *In re Dembiczak*, 50 U.S.P.Q.2d 1617. Consequently, a motivation upon which a *prima facie* showing of obviousness may be predicated has not been provided. Hence, because the prior art references, either alone or in combination do not teach or suggest all of the limitations of claim 11, nor has a motivation or suggestion to combine references sufficient to sustain a *prima facie* showing of obviousness been provided, the Applicant respectfully asserts that a *prima facie* showing of obviousness has not been made with respect to claim 11. Therefore, claim 11 is allowable under 35 U.S.C. § 103 over *Ellis*, *Chao* and *Sato*.

Claim 12 depends from claim 11 and recites the additional step of selectively modifying the response time value to correspond to a residual time value remaining in a response timer after the second amount of time has passed. The Examiner contends that the express limitation of claim 12 as taught by *Ellis* in disclosing that "the retry time is set to an amount equal to twice the first response time." (Paper No. 7, pages 6-7.) However, by its

plain terms, setting a retry time equal to an amount that is twice the first response time does not recite a step of modifying a response time value to correspond to a residual time value remaining in a response timer. Additionally, the Examiner recites no further motivation for combining the prior art references to make the invention of claim 12 beyond that recited with respect to claim 11. Because a motivation upon which a *prima facie* showing of obviousness may be predicated has not been provided, and because it has not been shown that the prior art references alone or in combination, teach or suggest all of the limitations of claim 12 a *prima facie* showing of obviousness has not been made with respect thereto. Consequently, claim 12 is allowable under 35 U.S.C. § 103 over the cited prior art.

Claim 13 further depends from claim 12 and recites the method thereof in which the response time value is selectively modified to equal the residual time value plus a timer resolution value. The Examiner contends that *Ellis, Chao* and *Sato* teach the limitations of claim 13, and in particular the Examiner refers to FIGURE 5 of *Ellis* as disclosing a retry time plus one, which purportedly discloses the express limitation of claim 13. However, the aforesaid teaching in *Ellis* discloses a step of incrementing a retry number, not a step of selectively modifying a response time value. (*Ellis*, FIGURE 5, step 114.) Furthermore, for the reasons recited in conjunction with, *inter alia*, claims 2 and 12, *Ellis* does not show time value increments by a timer resolution value, or a residual time value, respectively. Thus, the Applicant respectfully contends that the prior art references, either alone or in combination, do not teach or suggest all of the limitations of claim 13. Furthermore, the Examiner recites no additional motivation for combining *Ellis, Chao* and *Sato* to make the invention of claim 13 other than that recited in conjunction with claim 11. For the reasons recited in conjunction therewith, the motivation to combine prior art references is not sufficient to sustain a *prima facie* showing of obviousness. Therefore, and because the prior art references, alone or in combination, do not teach or suggest all of the limitations of claim

13, the Applicant respectfully contends that claim 13 is allowable under 35 U.S.C. § 103 over *Ellis, Chao* and *Sato*.

Claim 15 is directed to the method of claim 14 wherein the default value recited therein corresponds to a maximum amount of time the communication system requires to transfer the first frame of information between a first data processing system and a second data processing system. The Examiner contends that the limitation of claim 15 is taught by *Ellis*. (Paper No. 7, page 7, citing *Ellis* and column 2, line 25.) However, the teaching relied upon does not disclose the limitation of claim 15 but teaches that "when the first response time is a maximum for response times for messages sent from [a] first network device to [a] second network device, the retry time for the second network device is set to an amount equal to twice the first response time." (*Ellis*, column 2, lines 25-28.) Prior art references must be considered in their entirety. MPEP § 2141.02. Thus, in fact, to the extent that *Ellis* discloses modifying a response time value at all, it discloses setting a response time value to twice the maximum response time. Additionally, the Examiner provides no further motivation for combining the prior art references to make the invention of claim 15 beyond that provided in conjunction with claim 11. Because, the prior art references, either alone or in combination, fail to teach or suggest all of the limitations of claim 15, and because a proper motivation for combining references supporting a *prima facie* showing of obviousness has not been provided for the reasons discussed in conjunction with claim 11, the Applicant respectfully contends that claim 15 is also allowable under 35 U.S.C. § 103 over *Ellis, Chao* and *Sato*.

Claim 17 recites a first data processing system for communicating with a second data processing system. The first data processing system includes interface means for transmitting a first information frame and for selectively receiving a first response in response to transmission of the first information frame, the timer for measuring a first amount of time between transmission of the first information frame and receipt of the first

response, the timer being coupled to the interface means, and a central processing unit coupled to the timer for selectively modifying a response time value in response to the first amount of time. The Examiner notes that the limitations of claim 17 are similar to those set forth in method claims 1 and 9, and rejects claim 17 on the same rationale as set forth therewith. (Paper No. 7, page 7.) For the reasons discussed hereinbelow in conjunction with claim 1, and those discussed hereinabove in conjunction with claim 9, the Applicant respectfully contends that the prior art references, either alone or in combination, do not teach all of the limitations of claim 17. For example, with regard to the limitations directed to a timer, which limitations the Applicant understands are purported to be taught by the disclosure relied in *Chao* relied upon in rejecting claim 9, and for the reasons recited in conjunction therewith, *Chao* fails to teach or suggest a timer as recited in claim 17. Furthermore, the Examiner provides no further motivation for combining the prior art references to make the invention of claim 17 beyond that motivation provided in conjunction with claim 11. However, as discussed hereinabove in conjunction with claim 11, such a motivation is insufficient to sustain a *prima facie* showing of obviousness. Therefore, because it has not been demonstrated that the prior art references, either alone or in combination teach or suggest all of the limitations of claim 17, nor has a motivation or suggestion to combine upon which a *prima facie* showing of obviousness may be predicated been supplied, the Applicant respectfully asserts that claim 17 is allowable under 35 U.S.C. § 103 over *Ellis*, *Chao* and *Sato*.

Claims 18 and 19 each further depend from claim 17. Claim 18 recites the data processing system of claim 17 in which the central processing unit dynamically modifies the response time value in response to the first amount of time, and, claim 19 is directed to the data processing system of claim 17 further including means for incrementing the response time value by a preselected time period in response to the first amount of time. The Examiner has provided no motivation for combining the prior art references for making the

inventions of claims 18 and 19 other than that recited in conjunction with claim 11, which motivation has hereinabove been shown to be insufficient for sustaining a *prima facie* showing of obviousness. Furthermore, dependent claims incorporate all of the limitations of the claims from which the depend, and for the reasons discussed hereinabove in conjunction with, claim 17, the prior art references, either alone or in combination, have not been demonstrated to teach or suggest all of the limitations of claims 18 and 19. For these reasons, a *prima facie* showing of obviousness has not been made with respect to claims 18 and 19. Hence, the Applicant respectfully asserts that claims 18 and 19 are allowable under 35 U.S.C. § 103 over *Ellis*, *Chao* and *Sato*.

With respect to claim 20, limitations of claim 20 have been incorporated in claim 1 as amended herein. Claim 20 has been canceled and is respectfully withdrawn from the Examiner's consideration. Claim 1 as amended to incorporate the limitations of claim 20 is directed to the identical invention of previous claim 20.

Claim 1, as amended, recites a method for operating a communication system including the steps of transmitting a first information frame, selectively receiving a first response in response to transmission of the first information frame, measuring a first amount of time between transmission of the first information frame and receipt of the first response, and selectively modifying a response time value in response to the first amount of time, wherein the step of measuring a first amount of time between transmission of the first information frame and receipt of the first response uses a timer operating in response to a clock, and wherein the response time value is a response time value of the timer. The Examiner asserts that *Ellis*, *Chao* and *Sato* disclose the invention of amended claim 1. In particular, the Examiner relies on the same teaching in *Chao* relied upon in rejecting claim 9. However, for the reasons discussed in conjunction with, *inter alia*, claim 9 the Examiner has not identified teaching in *Chao* disclosing a timer used for measuring a first amount of time between transmission of a first information frame and receipt of a first response.

Neither does *Chao* disclose a timer operating in response to a clock. Thus, the Applicant respectfully contends that it has not been shown that the prior art references, either alone or in combination, teach or suggest all of the limitations of claim 1. Furthermore, the Examiner provides no further motivation for combining the prior art references to make the invention of claim 1 other than that recited in conjunction with claim 11. For the reasons discussed hereinabove in conjunction therewith, a *prima facie* showing of obviousness cannot be predicated on the motivation provided by the Examiner. Therefore, because a motivation sufficient to sustain a *prima facie* showing of obviousness has not been provided, and because the prior art references do not teach or suggest all of the limitations of claim 1, the Applicant respectfully asserts that claim 1 is allowable under 35 U.S.C. § 103 over *Ellis*, *Chao* and *Sato*.

V.   CONCLUSION

As a result of the foregoing, it is asserted by Applicant that the remaining Claims in the Application are in condition for allowance, and respectfully request an early allowance of such Claims.

Applicant respectfully requests that the Examiner call Applicant's attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,

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